The Constitution of Nepal, 2019

PREAMBLE

WHEREAS it is desirable in the best interest and for all-round progress of the Kingdom of Nepal and of the Nepalese people to conduct the government of the country in consonance with the popular will;

AND WHEREAS we are firmly convinced that such arrangement is possible only through the partyless democratic Panchayat System rooted in the life of the people in general, and in keeping with the national genius and tradition and as originating from the very base with the active cooperation of the people and embodying the principles of decentralization[1];

AND WHEREAS the happiness and prosperity of our beloved subjects have always been our only objective for the accomplishment of which we are solemnly resolved;

AND WHEREAS it is desirable for the said purpose to enact and promulgate a Constitution for the Kingdom of Nepal;

Now THEREFORE, I, King Mahendra Bir Bikram Shah Deva, in exercise of the sovereign powers and prerogatives inherent in us according to the constitutional law, custom and usage of our country as handed down to us by our august and revered forefathers, do hereby enact and promulgate this Constitution.

PART 1

PRELIMINARY

1. Constitution as the Fundamental Law: This Constitution is the fundamental law of Nepal and all laws inconsistent with it shall, to the extent of such inconsistency, and subject to the provisions of this Constitution, be void.

2. The Nation: (1) Having common aspirations and united by the common bond of allegiance to the Crown, the Nepalese people irrespective of religion, race, caste or tribe collectively constitute the nation.

(2) It is the indefeasible and Inalienable right of the Nation to develop its political, economic and cultural life and to determine its relations with other nations, in accordance with its own genius and traditions.

3. Kingdom: (1) Nepal is an independent, indivisible and sovereign[2] Monarchical Hindu kingdom[3].

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[1] Amended by First Amendment
[2] Amended by Third Amendment

(2) The territory of Nepal shall comprise of-

(a) the territory at the commencement of this Constitution; and

(b) such other territory as may be acquired after the commencement of this Constitution.

4. National Language: The national language of Nepal is the Nepali language in the Devenagari script.

5. National Flag: The national flag of Nepal, as handed down by tradition, consist of two juxta-posed triangular figures with crimson-coloured base and deep blue borders, there being a white emblem of the crescent moon with eight rays visible out of sixteen in the upper part and a white emblem of twelve rayed in the lower part. The method to draw out the flag and other particulars relating to it are laid down in Schedule I.

6. National Anthem, etc: (1) The Royal salute as given in Schedule 2 is the national anthem of Nepal.

(2) Rhododendron Arboreum is the national flower, Crimson colour is the national colour, the Cow is the national animal and the Lophophorus is the national bird of Nepal.

(3) The coat-of-arms of Nepal shall be as laid down in Schedule 3.

Provided that the size of the coat-of-arms may be enlarged or reduced as required and that such colour may be used therein as may be prescribed by His Majesty's Government.

PART 2

CITIZENSHIP

7. Citizenship at the Commencement of the Constitution: Every Person who has his domicile in Nepal and-

(a) Who was born in Nepal; or

(b) either of whose parents was born in Nepal; or

(c) who, as a woman, has any kind of relation with a citizen of Nepal constituting matrimony in accordance with the laws and customs of Nepal; or

(d) who has already obtained a certificate of citizenship in accordance with the laws of Nepal;

shall be a citizen of Nepal at the commencement of this constitution.

8. Acquisition and Termination of Citizenship to be prescribed by Law: (1) After the commencement of this Constitution, the acquisition and termination of citizenship of Nepal and other matters related thereto shall be as prescribed by law.

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[3] *Ibid*

(2) Laws to be made in pursuance of clause (1) shall, inter alia, stipulate that a foreigner may qualify for the acquisition of citizenship if-

(a) one can read and write the national language of Nepal;

(b) one is, engaged in an occupation, resides in Nepal;

(c) he has taken steps to renounce the citizenship of the country of which he is a citizen; [4]

[5](d) such person as defined by law, has resided in Nepal for a period of not less than two years in the case of a person of Nepalese origin, *after renouncing the citizenship of her country in the case of female married to a Nepalese citizen*[6] and for a period of not less than fifteen years in the case of other persons; *and*[7]

(e) whatsoever stated in clause 'a', 'b' and 'd', if person internationally recognized apply for the Nepalese citizenship or whatsoever stated in clause 'a', 'b'. 'c' and 'd', to provide Nepalese citizenship to honor somebody with high goodwill[8].

(3) laws to be made in pursuance of clause (1) shall, inter alia, stipulate that the citizenship of a person may be terminated if-

(a) he has raised arms or has made an attempt to raise arms against Nepal or has committed any other offence against the State; or

(b) he has not served or avoids serving the State, during war or any other emergency, in the manner prescribed by law.

PART 3

<u>FUNDAMENTAL DUTIES AND RIGHTS</u>

<u>9. Fundamental Duties of the Citizen:</u> Following shall be the fundamental duties of every citizen[9].

(a) Devotion and loyalty to the kingdom of Nepal;

(b) To exercise one’s rights with due regard to the law and without infringing upon the rights of others;

(c) to obey the provisions made by the constitution; and

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[4] Amended by the Third Amendment
[5] Amended by the Second Amendment
[6] Amended by the Third amendment
[7] Inserted by the Third Amendment
[8] *Ibid*
[9] Amended by the Third Amendment

(d) to maintain harmony in society by not doing anything to entice hatred, derision, violent act or damage to the public or private property among caste, ethnicity, region, community, class, religion or any other such matters affecting the sovereignty, indivisibility and unity of Nepal,

10. Right to Equality: (1) All citizens shall have the right to equal protection of the laws.

(2) No discrimination shall be made against any citizen in the application of general laws on grounds of religion, race, sex, caste, tribe or any of them.

(3) There shall be no discrimination against any citizen in respect of appointment to the government service or any other public service only on grounds or religion, race, sex, caste, tribe or any of them.

11. Right to Freedom: (1) No person shall be deprived of his life or personal liberty saves in accordance with the law.

[10](2) Subject to the other provisions of this part all citizens shall have the right to the following freedoms.

(a) freedom to speech and expression;

(b) freedom to assemble peaceably and without arms;

(c) freedom to form unions and associations;

(d) freedom to move to or reside in any part of Nepal; and

(e) freedom to acquire and enjoy property or to dispose it off by sale or otherwise.

[11](2a) Notwithstanding anything contained in clause (2), no political party or any other organisation, union or association motivated by party politics shall be formed or caused to be formed or run.

(3) No person shall be punished for an act which was not punishable by law when the act was done, nor shall any person be subjected to a punishment greater than that prescribed by law for an offence when the offence was committed.

(4) No person shall be prosecuted and punished more than once for the same offence in any court.

(5) Except voluntarily, no person accused of any offence shall be compelled to be a witness against himself.

(6) No person who is arrested shall be detained in custody without being informed, as soon as possible, about the grounds of such arrest, nor shall he be deprived of the right to consult and be defended by a legal practitioner of his choice.

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[10] Amended by the First Amendment
[11] Inserted by the First Amendment

Explanation- For the purpose of this clause, "legal practitioner" includes any person who, under the law for the time being in force, is authorised to represent any other person in any court.

(7) Every person who is arrested and detained in custody shall be produced before a judicial authority within a period of twenty-four hours of such arrest, excluding the period of journey from the place of arrest to such authority, and so such person shall not be detained in custody beyond the said period except on the order of such authority.

(8) Nothing in clauses (6) and (7) shall apply to person who-

(a) is a citizen of an enemy state; or

(b) is arrested or detained under a law providing for preventive detention.

12. Right against Exile: No citizen shall be exiled.

13. Right against Exploitation: Traffic in human beings, slavery and forced labour are prohibited.

Provided that the prohibition on forced labour shall not be a bar to provide for compulsory service by law for public purposes.

14. Right to Religion: Every person may profess his own religion as handed down from ancient times and may practice it having regard to the traditions.

Provided that no person shall be entitled to convert another person from one religion to another.

I5. Right to Property: No person shall be deprived of his property save in accordance with the law.

16. Right to Constitutional Remedies: Right to proceed in accordance with Article 71, for the enforcement of the rights conferred by this Part, is guaranteed.

17. Restrictions on the Exercise of fundamental Rights for Public Good: (1) Laws may be made for the sake of public good to regulate or control the exercise of fundamental rights specified in this Part.

(2) If it is stated in the preamble of any Act that it has been made for any or all of the followings purposes, such Act, as well as any rule, order or by-laws made under such Act and having the force of law, shall be deemed to be a law made for the public good:—

(a) for the preservation of the security of Nepal;

(b) for the maintenance of law and order.

(c) for the maintenance of friendly relations with foreign states.

(d) for the maintenance of harmonious relation among the people of different classes or professions or between the people of different areas;

(e) for the maintenance of good conduct, health, comfort, economic interest, decency or morality of the people in general;

(f) for the protection of the interest of minors or women;

(g) for the prevention of internal disturbance of external invasion;

(h) for the prevention of contempt of court or contempt of the National Panchayat;[12]

(i) for the prevention of any attempt to subvert this constitution or any other law for the time being in force or for the prevention of any other attempt of like nature;[13] and

(j) to ensure the pursuance of fundamental duties[14].

[15]PART 4
DIRECTIVE PRINCIPLES OF PANCHAYAT SYSTEM

18. Application of the Principles: The principles laid down in this part are for general guidance and they shall not be enforceable by any court.

19. Aims and Objectives:

(1) The aim of the Panchayat System shall be to promote the welfare of the people by setting up a society which is democratic, just, dynamic and free from exploitation by bringing about harmony in the interests of different classes and professions from a comprehensive national outlook.

(2) The political objective of the Panchayat System shall be to mobilise, to the maximum possible extent and on a voluntary basis, the national genius and resources for the setting up of a society as envisaged by clause (1) by associating, through gradual decentralisation, the maximum number of representatives of the people at all levels of the administration and by making the general public vigilant and conscious.

[16](3) The social objectives of the Panchayat System shall be to remove the obstacles in the way to mobilise people in creating a society mentioned in Clause (1) and to establish a social life based on uniform morality and to maintain the national unity recognizing the mutual harmonious tolerance towards the culture and traditional value adopted by the Nepalese citizens as prosperity, affluence and national character.

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[12] Amended by Third Amendment
[13] *Ibid*
[14] Inserted by the Third Amendment
[15] Amended by the First Amendment
[16] Amended by the Third Amendment
Note: Clause (3) was also amended by the Second Amendment

(4) The economic objective of the Panchayat System shall be to establish a system that will provide maximum participation of the general public in the economic uplift of the country as well as to provide due protection to private enterprise, and wherein no individual or class is able to exercise undue economic pressure upon another individual or class; to establish cooperatives as the infrastructure of Nepalese industrial and trade policy by encouraging every sector of Nepalese life to invest upon private sector for developing such cooperative institutions as the peoples' trade and also to make provision for encouraging utilization of financial benefit and facilities.

[17](5) The development goal of Panchayat System shall be to mobilize Nepal's natural resources and heritage in beneficial and advantageous way and in just manner for balanced development among the various regions of Nepal on equal basis of opportunity; initiate for providing appropriate facilities to bring people of all regions in equal status and to make effort for economic development to fulfill the basic necessity of people of remote areas.

[18](6) The goal of foreign policy of Nepal shall be to strive for making Nepal a peace zone by adopting basic principles of United Nations and principles of non-alliance.

PART 5
HIS MAJESTY

20. His Majesty-the Source of Power: (1) In this Constitution the words **'**His Majesty**'** mean His Majesty the King for the time being reigning, being a descendant of Great King Prithivi Narayan Shah and adherent of Aryan culture and Hindu religion[19].

(2) The sovereignty of Nepal is vested in His Majesty and all powers executive, legislative and judicial emanate from Him. These powers are exercised by His Majesty through the organs established by or under this Constitution and other laws for the time being in force keeping in view the interest and wishes of His Majesty's subjects according to the highest traditions of the Shah dynasty.

[20]**20(a). Coordination Commission:** (1) His Majesty the King may constitute a coordination commission to coordinate among the executive, legislature, judiciary and other organs to protect national independence, sovereignty and indivisibility and to maintain national security, law and order, peace and justice by uniting all the Nepalese in one bond through Partyless Democratic Panchayat System.

(2) Formation, functions, duties, procedure and other necessary matters relating to Coordination Committee shall be in accordance with the regulation approved by the his

[17] Inserted by the Third Amendment
[18] *Ibid*
[19] Amended by Second Amendment
[20] Inserted by the Third Amendment. As this provision was stated to commence with the publication of notice in Gazette, it was commenced on 2038/1/29 B.S.

majesty and no question shall be raised in any court regarding the implementation of this regulation.

21. Law relating to Succession to the throne: (1) Nothing in this Constitution shall affect the law, custom and usage relating to the succession to the throne by the descendants of His Majesty.

(2) His Majesty shall have exclusive power of enacting, amending and repealing the law relating to the succession to the throne by the descendants of His Majesty.

[21]**22. Regent, Council of Regency, Royal Representative and Council of Royal Representatives:** In this Constitution any reference to His Majesty shall unless the subject or context otherwise requires, include reference to Regent or Council of Regency, if empowered in relation to the matter in question, and to the Royal Representative or the Council or Royal Representatives exercising powers under Article 22 A[22].

22 A. Royal Representative and Council of Royal Representatives: [23] His Majesty may, by warrant under His Royal Seal, appoint a Royal Representative or a Council of Royal Representatives to exercise, subject to such conditions as may be prescribed in the warrant, the day to day functions of His Majesty during His Majesty's absence from Nepal or for any specified period. The functions exercised within the terms and limits prescribed in the warrant by such Royal Representative or the Council of Royal Representatives shall be deemed, for the purposes of this Constitution, to have been exercised by His Majesty.

[24]**22B. Royal Standard:** Square in shape and crimson in colour having borders in white, the Royal Standard traditionally compromises of a crescent moon, in the upper corner near the flag-staff with eight out of sixteen rays, shown in white colour, a white sun with twelve white rays in the upper corner, opposite to the flag-stifle a white flag drawn to represent the five element & in the middle of the standard, and as upright white lion facing the flag with both its paws holding, and the right hind leg supporting the flag-stifle.

PART 6
RAJ SABHA

23. Raj Sabha (I) There shall be a Raj Sabha in Nepal, the functions of which shall be as laid down in this Constitution.
(2) The Raj Sabha shall consist of the following persons-[25]
(a) Members of royal family as prescribed by the His Majesty

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[21] Amended by the First Amendment
[22] Amended by the Second Amendment.
[23] Second Amendment placed the Article 86 as 22(a)
[24] Inserted by the Second Amendment
[25] Amended by the Third amendment of the Constitution.
Note: Article 23 (2) was amended also by the first and second amendment.

(b) The Prime Minister, ex-officio member,
(c) The Chief Justice, ex-officio member,
(d) The Chairman of the National Panchayat, ex-officio member;
(e) Deputy Prime Minister, ex-officio member,
(f) Ministers, ex-officio member,
(g) The Bada Gurujyu, ex-officio member,
(h) Deputy Bada Gurujyu, ex-officio member.
(h) The commander-in-Chief ex-officio member;
(i) Main *Saheb jyu, ex-officio member,*
(j) The Chief Commissioner of the Prevention of Abuse of Authority Commission, ex-officio member;
(k) The Auditor-general, Ex-officio member;
(l) The Chairman of Public Service Commission, ax-officio member
(m) The Chief Election Commissioner, ax-officio member
(n) The attorney-General, ex- officio member;
(o) The Mool Purohit, ex-officio member; and
(p) Main *Chautariya,* ex-officio member
(q) Staffs of His Majesty as prescribed by him,
(r) State Secretary or Secretary of His majesty's Government as prescribed by the His Majesty, and
(s) such other members as His Majesty may appoint from among persons who are renowned in different fields of national life or who have rendered distinguished service to the country or who are otherwise considered fit to be members of the Raj Sabha

[26](3) A person appointed under sub-clause (a), (q), (r) and (s) of clause (2) shall remain a member during the pleasure of His Majesty.

(4) A meeting of the Raj Sabha shall be summoned by the command of His Majesty and shall be presided over by Him if present at the meeting, and if His Majesty is not present at the meeting, shall be presided over by the crown prince, if He has attained the age of eighteen years, by a Vice-Chairman generally or specifically designated by His Majesty and in case no Vice-Chairman is so designated, the meeting shall be presided over by such member as the Raj Sabha by a resolution may decide at that meeting.

(5) Notwithstanding anything contained in clause (4), a meeting of the Raj Sabha shall be summoned, under the following circumstances, by the Secretary of the Raj Sabha and such meeting shall be presided over by such person as may be decided by a resolution in that meeting

(a) on the demise of His Majesty or if His Majesty proclaims his abdication; or
(b) if at least one-fourth of the total number of member of the Raj Sabha (of whom at least four shall be Ministers of the Crown) sign a requisition declaring that His Majesty is unable by reason of mental or bodily infirmity, to command the summoning of a meeting.

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[26] Amended by the Third Amendment.
Note: Article 23(3) was also amended by the First and Second Amendment.

(6) The meeting summoned under the circumstances mentioned in sub-clause (a) of clause (5) shall proclaim-

(a) the accession to the Throne of the heir-apparent to His Majesty, in accordance with the law, custom and usage relating to the succession to the Throne; and

[27](b) The appointment of a Regent or a Council of Regency, subject to the rules made by His Majesty, in case His Majesty is below the age of eighteen years.

Provided that the Regency or the Council of Regency proclaimed under this sub-clause shall terminate when His Majesty attains the age of eighteen years.

(7) (a) the meeting summoned under the circumstances of sub-clause (b) of clause (5) shall decide whether His Majesty is unable, by reason of metal or bodily infirmity, to command the summoning of a meeting, and

[28](b) If the Raj Sabha decides in the affirmative by a majority of at least two-thirds of its total membership, it shall proclaim the Crown Prince to be the Regent if He has attained the age of eighteen years and, if he has not, shall subject to the rules made by His Majesty, Proclaim a Regent or a Council of Regency.

Provided that the Regency or the Council of Regency proclaimed under this sub-clause shall, subject to the rules made by His Majesty, terminate on the demise of or abdication by His Majesty or on His Majesty informing the Raj Sabha that He is fit to resume the Royal functions.

(8) The Regent or the Council of Regency proclaimed under clause (6) or (7) shall have no power to decide or to give approval to anything which shall be prejudicial to the interest of His Majesty or of His successor.

(9) Nothing in sub-clause (a) of clause (6) shall prevent the heir-apparent to His Majesty from exercising the powers of Crown pending a Proclamation under that sub-clause.

(10) (a) A Standing consisting of seven to fifteen members of the Raj Sabha designated by His Majesty may perform all functions of the Raj Sabha under this Constitution in the name of the Raj Sabha except those mentioned in clause (5), (6) and (7).

Provided that the above provision shall not prevent His Majesty, if he so desires, from causing any decision taken by the Standing Committee in the name of the Raj Sabba to be placed at the meeting of the Raj Sabha for its consideration.

[29](b) His Majesty shall preside over the Standing Committee mentioned in sub-clause (a), or He shall designate any member of Standing Committee as its Chairman. The Secretary of the Raj Sabha shall be the secretary of the Standing Committee.

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[27] Amended by the Second Amendment
[28] *Ibid*
[29] Amended by the First Amendment

[30](c) The term of office of the members of the Standing Committee of the Raj Sabha shall be for four years and they shall be paid such remuneration as His Majesty may prescribe.

Provided that any member of the Standing Committee may submit his resignation in writing to His Majesty or that His Majesty, at His Pleasure, may remove any person from the membership of the Standing Committee.

(d) The Standing Committee mentioned in sub-clause (a) may, if it so desires, associate other members of the Raj Sabha, during its deliberations on any subject.

(11) The Raj Sabba or its Standing Committee shall transact its business notwithstanding the absence of any of its members at any meeting if-

(a) notice of such meeting has been sent to all who were members on the date of the issue of the notice or that such notice has been published in the Nepal Gazette[31]; and

(b) at least one- third of the total number of members are present.

(12) His Majesty may, in addition to the matters on which he has to consult the Raj Sabha according to this Constitution, also seek its advice in connection with performance of any of His other functions.

(13) Unless otherwise provided for, the decision of the Raj Sabha or of its Standing Committee shall be taken by a majority of the members present and voting.

(14) Subject to this Article, the Raj abha or its Standing Committee may make rules for the conduct of its business, and until such rules are made, its business shall be conducted by rules made by His Majesty.

(15) The Secretary of the Raj Sabha shall be appointed by His Majesty.

(16) Members of the Raj Sabha shall take oath in the manner and form prescribed by His Majesty.

PART 7
COUNCIL OF MINISTERS

24. Exercise of the Executive Power- (1) The executive power of Nepal shall be exercised in accordance with this Constitution and other laws for the time being in force by His Majesty either directly or through Ministers or other officers subordinate to Him.

(2) The question whether His Majesty has consulted any person or authority under the provisions of this Constitution and whether any person or authority has submitted any advice or recommendation and, if so, what advice or recommendation has been submitted, shall not be raised in any court.

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[30] *Ibid*

[31] Changed by the First Amendment

(3) All executive acts done by His Majesty under this Constitution except where, by the rules made pursuant to clause (4), it is provided that any such act shall be expressed in the name of His Majesty, shall be expressed to have been done in the name of His Majesty's Government.

(4) Orders, decisions and other instruments made and executed in the name of His Majesty or His Majesty's Government shall be authenticated in such manner as may be specified in rules to be made by His Majesty, and the validity of an order, decision or instruments which is so authenticated shall not be called in question on the ground that it is not an order, decision, or instrument made or executed by His Majesty or by His Majesty's Government as the case may be.

[32]**25. Formation of the Council of Ministers and its Functions-** (1) There shall be a Council of Ministers to aid and advise His Majesty in the exercise of His functions. It shall be the duty of the Council of Ministers to give general directions to, and keep general control over, the administration of the country in accordance with the provisions of this Constitution, other laws for the time being in force and such directives as may from time to time be given by His Majesty in the interest of Nepal and the Nepalese people.

(2) The Council of Ministers, as may be required, shall consist of the Prime Minister, Deputy Prime Minister and Ministers of the Crown.

(3) His Majesty shall constitute the Council of Ministers under His own Chairmanship or under the Chairmanship of the Prime Minister.

[33]**26. Ministers of the Crown-** (1) Any member of National Panchayat proposed and supported by 25 per cent of the total members of National Panchayat may stand for the post of Prime Minister. If there is single candidate and elected uncontested or if there is competition and elected with at least 60 per cent or more of the total members of National Panchayat, recommendation shall be made before the His Majesty for the post of Prime Minister. His Majesty shall appoint the person recommended in such manner in the post of Prime Minister.

Provided that (a) in an election pursuant to this clause, if there is only two candidate and neither has been able to acquire necessary majority votes or if there is more than two candidate not able to acquire necessary majority votes; reelection shall have to be carried out between two candidates having more votes in first and second place or equal number of votes if that is the case, omitting names of other candidates other than those two from the list.

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[32] Amended by the Third Amendment. As this provision was stated to commence with the publication of notice in Gazette, it was commenced on 2038/1/29 B.S.
Note: Article 25 is also amended by the First and Second Amendment of the Constitution.
[33] *Ibid*
Note: Article 26 is also amended by the First and Second Amendment of the Constitution.

(b) If no majority votes are acquired even in the reelection pursuant to sub-clause 'a', National Panchayat shall recommend three names among the members of National Panchayat for the post of prime minister. Upon such recommendation, His Majesty may appoint one person in the post of prime minister.

(c) Other necessary matters relating to election pursuant to this Sub-section shall be as provisioned in National Panchayat Regulation.

(2) His Majesty may, at the recommendation of Prime Minister, may appoint Deputy Prime Minister and other ministers as per the necessity.

(3) The Prime Minister, Deputy Prime Minister and Ministers shall be collectively responsible towards the National Panchayat and severally responsible for the functions of respective ministries.

(4) The Prime Minister shall be relieved of his office, if-

(a) his resignation in writing is accepted by His Majesty;

(b) he ceases to be a member of the National Panchayat;

(d) a resolution, passed by a majority of two-third members of the total membership of the National Panchayat, to the effect that he has not fulfilled the responsibilities of his office honesty is approved by His Majesty; or

(e) His Majesty relieves him of his office.

(5) The Deputy Prime Minister or a Minister shall be relieved of his office, if-

(a) any of the things mentioned in clause 'b', 'c' and 'd' of Subsection (4) above takes place; or

(b) his resignation in writing submitted through Prime Minister is accepted by His Majesty;

(c) the Prime Minister is relieved from his office.

[34]**<u>26A. Minister of State-</u>** (1) His Majesty may, as may be required, appoint Ministers of State from among the members of the national Panchayat on the recommendation of His Majesty.

(2) Minister of State appointed pursuant to subsection 1 may be given responsibility of any ministry or function as in capacity of Minister of the Crown and for the purpose of this constitution or any other laws such Minister of State shall be presumed to perform duties as Minister of Crown.

(3) Minister of State shall be relieved of his office, if-

(a) any of the things mentioned in clause 'b' and 'd' of Subsection (4) of Section 26 above takes place;

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[34] Amended by the Third Amendment. As this provision was stated to commence with the publication of notice in Gazette, it was commenced on 2038/1/29 B.S.

Note: Article 26a was inserted by the First Amendment and Subsection 2 of this Section was also amended by the Second Amendment of the Constitution.

(b) any of the things mentioned in clause 'c' of Subsection (4) of Section 26 above is takes place for the Minister of State working as a Minister of the Crown pursuant to Subsection (2);

(c) his resignation in writing submitted through Prime Minister is accepted by His Majesty; or

(d) the Prime Minister is relieved from his office.

[35]**27. Assistant Ministers-** (1) His Majesty may appoint Assistant Ministers from among the members of the National Panchayat to assist any Minister of the Crown in the discharge of his functions on the recommendation of the Prime Minister.

(2) The Assistant Ministers shall be relieved of his office, if

(a) any of the things mentioned in clause 'b' and 'd' of Subsection (4) of Section 26 above takes place;

(c) his resignation in writing submitted through Prime Minister is accepted by His Majesty; or

(d) the Prime Minister is relieved from his office.

[36]**28. Remuneration-** The remuneration of the Ministers of the Crown, the Minister of State and the Assistant Ministers shall be determined by an Act and until so determined shall be as determined by the rules made by His Majesty.

29. Conduct of Government Business- (1) The allocation and transaction of business of His Majesty's Government shall be done in accordance with the rules approved by His Majesty.

(2) The question whether the rules made under clause (1) have or have not been observed, shall not be inquired into any court.

PART 8
LOCAL PANCHAYATS AND NATIONAL PANCHAYAT

CHAPTER-I
LOCAL PANCHAYATS

[37]**30. Village Assembly and Town Assembly:** (1) There shall be a Village Assembly in a village or a part of village or a group of villages as may be specified by law; and Town Assembly in the town area.

(2) The constitution, functions, duties and power of Village Assembly and Town Assembly shall be defined by law.

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[35] *Ibid*

Note: Subsection 2 of Section 27 was also amended by the First and Second Amendment

[36] Amended by the First Amendment of the Constitution

[37] Amended by the Second Amendment of the Constitution

[38]**31. Village Panchayat and Town Panchayat :** (1) There shall be an executive committee called the Village Panchayat or the Town Panchayat for each village Assembly and Town Assembly respectively.

(2) The constitution, functions, duties and powers of the Village Panchayat and the Town Panchayat shall be defined by law.

32. District Panchayat: [39](1) There shall be a District Assembly in every District.

[40](2) There shall be an executive committee called the District Panchayat for each District Assembly.

(3) The constitution, functions, duties and powers of the District Assembly and the District Panchayat shall be defined by law.

[41]**33. Zonal Assembly:** An assembly of members of all he District Panchayat within one Zone shall be called Zonal Assembly.

CHAPTER-2
NATIONAL PANCHAYAT

[42]**34. Constitution of National Panchayat:** (1) There shall be a National Panchayat as national legislature in Nepal which shall be the apex of the party-less democratic Panchayat System and its constitution, functions, duties and powers shall be as specified in this Constitution.

(2) The National Panchayat shall consist of the following members-

(a) Members elected in the manner specified in Schedule 4, and

(b) Members nominated by His Majesty constituting twenty-five per cent of the total number of members elected under sub-clause (a). While appointing in this manner, His Majesty, if he desires, may appoint them from the group as follows:

i. Political Sector;
ii. Class organizations;
iii. Intelligentsia;
iv. different communities of nepalese society; and
v. any other individuals as deemed appropriate by His Majesty.

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[38] *Ibid*
[39] *Ibid*
[40] *Ibid*
[41] Amended by the Second Amendment of the Constitution
Note: Article 33 was amended also by the First Amendment and was commenced on 2024/11/16 B.S.
[42] Amended by the Third Amendment. As this provision was stated to commence with the publication of notice in Gazette, it was commenced on 2037/11/05 B.S.
Note: Article 34 was also amended by the Second Amendment.

(3) Election of the members provisioned in Clause 'a' of the Subsection 2 shall be held, subject to provisions stated in other parts of the constitution, in every five years at once on the basis of adult franchise.

(4) The tenure of the members of National Panchayat having existence at the time of commencement of this Article shall cease automatically upon the declaration of result of the election of members of National Panchayat pursuant to Subsection (3).

(5) While determining the constituency for the election purpose in a district where more than one member to be elected, whole district shall be taken as one constituency notwithstanding the numbers of members to be elected.

(6) Every Nepali citizen attained the age of 21 shall have the right to vote as prescribed in law. Such voter shall have right to vote in single constituency.

(7) Any person having the right to vote in concerned district constituency may stand as a candidate for the member of National Assembly subject to Article 35 and other prevailing laws.

[43]**<u>35. Qualification for Membership</u>**: In order to become a member of the National Panchayat, a person shall-

(a) be a citizen of Nepal;
(b) have attained the age of twenty-five years;
(c) have to be a member of any one class organization provisioned under Subsection (1) of Section 67A;
(d) have taken an oath in the application prepared for the candidates of National Panchayat membership in the manner prescribed by the Election Commission
(e) not have been expelled in accordance with Clause (2) of Article 38;
(f) should not be holding government office; and
(g) not have been disqualified under any law.

[44]**<u>36. Decision as to Disqualification of Members</u>:** If a question arises whether a member of the National Panchayat is disqualified or has became disqualified as laid down in Article 35, final decision in this respect shall be made by the Chief Justice of the Supreme Court after consultation with the Election Commission.

[45]**<u>37. Term of Office of the Members</u>:** (1) The term of office of the members of the National Panchayat shall be five years.

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[43] Amended by the Third Amendment. As this provision was stated to commence with the publication of notice in Gazette, it was commenced on 2037/11/05 B.S.
Note: Article 35 was amended by the First Amendment and was commenced on 2032/8/26 B.S. after a notice was published in Nepal Gazette on 2032/8/25. This article was also amended by the Second Amendment.
[44] *Ibid*
Note: Article 36 was also amended by the Second Amendment.
[45] *Ibid*

(2) For calculating the term of a member elected pursuant to the provisions of this Article, the term, not exceeding the period of five years, shall be deemed to end on the last day of the month of Chaitra of the fifth year of election.

(3) The term of office of the elected or nominated members shall commence from the date of election or nomination, as the case may be.

(4) If, for any reason, election is held on a date other than the appointed date, the term of office of the member of such group shall be calculated as if the elections were held on the date first appointed.

[46]**38. Vacation of Seat**: (1) The seat of a member of the National Panchayat shall become vacant-

(a) upon his death;

(b) if, by notice in writing to the Chairman of the National Panchayat, he resigns his Seat;

(c) if he ceases to have the qualification mentioned in Article 35;

(d) if, without the permission of the National Panchayat, he absents himself from meeting of the National Panchayat for a continuous period of one month;

(e) on the expiry of the term of office under Article 37; or

(f) if recalled pursuant to the provisions of law.

Provided that the member, while holding the office of the Prime Minister, the Deputy Prime Minister, other Minister, the Minister of State or the Assistant Minister shall not be subject to recall prior the expiry of one year.

(2) In case the Panchayat Policy and Investigation Committee of the National Panchayat submits a report with a finding that a member of the National Panchayat has conducted against constitution or has not conducted himself in a manner befitting his office, and if that is approved by National Panchayat, such the member concerned shall be warned, or suspended or expelled in accordance with the Panchayat Polity and Investigation Committee Regulation.

(3) If a seat in the National Panchayat falls vacant, it shall be filled as soon as possible. The vacancy shall be filled in the same manner as the member vacating the seat was elected or nominated.

(4) When a seat of a member falls vacant before the expiry of his term of office, the election or nomination; as the case may be, for such seat shall be only for the remainder of the term.

Note: Article 37 was also amended by the First and Second Amendment. The first amendment in Article 37 was commenced on 2024/12/19.

[46] *Ibid*

Note: Article 38 was also amended by the First and Second Amendment.

[47]**<u>39. Chairman</u>:** (1) His Majesty, on the recommendation of the National Panchayat shall appoint from among the members of the National Panchayat a member as Chairman of the National Panchayat if he is recommended under the prescribed method of election relating to Prime Minister under the Clause 1 of Article 26.

(2) The term of office of the Chairman of the National Panchayat shall be five years.

(3) The office of the Chairman of the National Panchayat shall become vacant-

(a) If his resignation in writing is accepted by His Majesty;

(b) If he ceases to be a member of the National Panchayat;

(c) On the expiry of his term of office pursuant to clause (2);

(d) If a resolution, passed by a majority of 60 percent of members of the total membership of the National Panchayat, to the effect that he has not fulfilled the responsibility of his office honestly, is approved by His Majesty.

(e) If he is relieved from his office by His Majesty.

(4) If the office of the Chairman of the National Panchayat falls vacant or if the Chairman of the National Panchayat is unable to perform the duties of his office on account of illness or any other reason, the Vice-Chairman of the National Panchayat may be authorised by His Majesty to perform the duties of the Chairman.

(5) If the office of the Chairman of the National Panchayat falls vacant, it shall be tilled as soon as possible in accordance with clause (1).

(6) Pending the appointment of the Chairman of the National Panchayat and if there is no vice-chairman also, a person designated by His Majesty shall act as the Chairman of the National Panchayat.

[48]**<u>40. The Vice-Chairman:</u>** (1) His Majesty, on the recommendation of the National Panchayat, shall appoint a member as Vice Chairman of the National Panchayat if he is recommended pursuant the Clause 1 of Section 26 relating to prescribed election method for Prime Minister.

(2) The term of office of the Vice-Chairman of the National Panchayat shall be five years.

(3)The Vice-Chairman of the National Panchayat shall, during the absence of the Chairman, act as Chairman in the meetings of the National Panchayat, and shall also if authorised under clause(4) of Article 39, perform all the functions of the Chairman of the National Panchayat.

(4) The office of the Vice-Chairman of the National Panchayat shall become vacant-

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[47] *Ibid*

Note: Article 39 was also amended by the Second Amendment.

[48] *Ibid*

Note: Article 40 was also amended by the Second Amendment

(a) if his resignation in writing is accepted by His Majesty;
(b) if he ceases to be a member of the National Panchayat ;
(c) on the expiry of his term of office pursuant to clause (2);
(d) If a resolution, passed by a majority of 60 percent of members of the total membership of the National Panchayat, to the effect that he has not fulfilled the responsibility of his office honestly, is approved by His Majesty.
(e) If he is relieved from his office by His Majesty.

(6) If the office of the Vice- Chairman of the National Panchayat falls vacant, it shall be filled as soon as possible in accordance with clause 1.

41. Steering Committee: (1) There shall be a Steering Committee consisting of *fourteen members, in addition to the ex-officio members pursuant to clause (2)* [49] to advise the Chairman of the National Panchayat with regard to proper conduct of business before the National Panchayat and also in other matters. Other functions of the Steering Committee shall be as laid down in the rules of the National Panchayat.

[50](2) The Chairman and the Vice-Chairman of National Panchayat shall be the ex-officio Chairman and Vice-Chairman respectively of the Steering Committee, and the Prime Minister, Minister for Finance, Home Affairs, Panchayat and *Minister for Law and Justice*[51] shall be the ex-officio members thereof. Other members of the Steering Committee shall be elected by the members of the National Panchayat in the manner laid down in the rules of the National Panchayat.

[52]**Explanation-** for the purpose of this clause the word 'minister' shall mean the minister of State acting as minister when no minister has been appointed.

(3) The term of office of the members of the Steering Committee, except that of the ex-officio members, shall be two years.

[53]**41A. Other Committees:** (1) There shall be committees of the National Panchayat on various matters formed with a view to associating to a greater extent the members of the National Panchayat in the administration of the country.

(2) The constitution and functions of the committees formed pursuant to clause (1) and the provisions for other committees concerning the business of the National Panchayat shall be as provided in the rules of the National Panchayat.

41B. Panchayat Policy and Investigation Committee: (1) There shall be one Panchayat Policy and Investigation Committee in the chairmanship of the chairman of National Panchayat.

[49] Amended by the First Amendment
[50] Amended by the First Amendment
[51] Amended by the Second Amendment
[52] Inserted by the Second Amendment
[53] *Ibid*

(2) The constitution of the Committee and authority and procedures regarding the overall functioning necessary to promote partyless Democratic Panchayat System shall be as laid down in the rules approved by His Majesty. No question shall be raised in any court regarding the adherence to that rule.

(3) Panchayat Policy and Investigation Committee shall have to implement the decisions made after discussion by the concerned committees of National Panchayat formed pursuant to Clause 1 of Article 41A on the yearly report of constitutional bodies sent by His Majesty in the manner prescribed by the rules pursuant to Clause 2.

<u>42. Session</u>: (1) After the commencement of this *Article*[54] His Majesty shall, as early as possible, summon the members of the National Panchayat to its first session.
(2) Thereafter subject to the provisions of this Constitution His Majesty may, from time to time, summon the members of the National Panchayat to its other sessions.

[55](3) His Majesty may conclude the sessions of the National Panchayat. Provided that the period between the concluding the session and the beginning of next session shall not ordinarily exceed one year.

[56](4) While the National Panchayat stands adjourned, His Majesty may, if he thinks necessary to summon a meeting of the National Panchayat at an earlier date, fix the date and time of such meeting, and, meeting shall be held on the date and at the time so fixed.

[57](5) Subject to the rules of the National Panchayat, the National Panchayat may adjourn in pursuance of a resolution passed thereof.

[58](6) Subject to the rules of the National Panchayat, the proceedings of the National Panchayat shall ordinarily be held in open.

<u>43. Address and Message by His Majesty</u>: (1) His Majesty may address the National Panchayat and for that purpose may command the attendance of the members.

(2) His Majesty may send messages to the national Panchayat and the National Panchayat after considering the contents of the message as soon as possible shall submit its opinion to His Majesty.

[59]44. ....

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[54] Amended by the Third Amendment. As this provision was stated to commence with the publication of notice in Gazette, it was commenced on 2038/1/29 B.S.

[55] Amended by the Second Amendment of the Constitution.
[56] *Ibid*
[57] *Ibid*
[58] *Ibid*
Note: Clause 6 of Article 42 was also amended by the First Amendment
[59] Repealed by the Second Amendment

[60]**45 Restriction on Debates:** (1) No discussion shall take place in the National Panchayat with regard to the conduct of His Majesty, Her Majesty and other members of the Royal family.

Provided that nothing in this clause shall be deemed to restrict criticism of His Majesty's Government.

(2) No discussion shall take place in the National Panchayat against the principles underlying the partyless democratic Panchayat system.

(3) No discussion shall take place in the National Panchayat with regard to the conduct of a Judge in the discharge of his duties.

(4) No discussion shall take place in the National Panchayat with regard to any matter relating to a case pending in any court in Nepal.

46. Voting: Save as otherwise provided in this Constitution any question put before the National Panchayat shall be decided by a majority of the members present and voting. The person presiding shall not ordinarily have a right to vote, but in the event of an even division of votes he shall exercise a casting vote.

47. Power to Transact the Business of the National Panchayat in Case of Vacancy: The National Panchayat shall have power to transact its business notwithstanding any vacancy in the membership thereof; and any proceeding therein shall be valid notwithstanding any such vacancy, or if it is subsequently discovered that some person not entitled to do so, took part in the proceeding..

48. Penalty for unauthorised presence or Voting: (1) if a person sits or votes as a member of the National Panchayat before he has complied with the requirements of Article 52 or when he knows that he is not qualified for membership thereof, he shall be liable in respect of every day in which he so sits or votes to a penalty of one hundred rupees and that penalty shall be realised as a sum due to the government.

[61](2) Nothing in clause (1) shall apply to a Minister of the Crown appointed under the proviso to clause (1) of Article 26, who shall be entitled to sit and take part in the proceedings of the National Panchayat.

Provided that he shall not be entitled to vote therein until he becomes a member of the National Panchayat.

49. Quorum: One fourth of the total number of membership of the National Panchayat shall make the Quorum of the National Panchayat. If, before or during any meeting attention is drawn that the quorum is not complete, the person presiding may, subject to the rules of the National Panchayat either suspend the proceeding of meeting until the

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[60] Amended by the Second Amendment
[61] *Ibid*
Note: Clause 2 was also amended by the First Amendment.

quorum is complete or adjourn the meeting till such time or day as may be specified by him.

50. Procedure relating to the Conduct of Business: [62](l) The National Panchayat may, subject to the provisions of this Constitution, make rules in respect of itself or its committees for the conduct of business, for the maintenance of order at its meetings, for the constitution and functions of committees formed pursuant to article 4lA.and for regulating any other matter. Such rules of the National Panchayat shall become operative when approved by His Majesty.

(2) Until the rules are made in accordance with clause (1) the matters referred to in that clause shall be regulated by rules made by His Majesty.

51. Privileges of the National Panchayat; (1) Subject to the Provisions of this Constitution and the rules of the National Panchayat, there shall be full freedom of speech in the National Panchayat.[63] No member of the National Panchayat shall be arrested, taken into custody or be liable to proceedings in any court in respect of anything said or any vote cast by him in the National Panchayat or any of its committees.

(2) The National Panchayat shall have full powers to regulate its internal matters and only the National Panchayat shall have authority to decide whether any proceedings of the National Panchayat is regular or otherwise and no question in respect thereof shall be raised in any court.

(3) No proceedings of the National Panchayat shall be interpreted in such a way as to question the bonafides of the National Panchayat and nothing shall be published which deliberately puts wrong or misleading construction on any thing spoken by any member.

(4) No member or officer of the National Panchayat shall be arrested

(a) during the session of the National Panchayat and

(b) during the period between the issuance of the notice of the summoning of the session and prior to the commencement of the session.

Provided that nothing in this clause shall be deemed to prohibit the arrest of any member or officer in accordance with the law providing for preventive detention or in respect of any criminal proceeding, and in case of such arrest of any member or officer, the Chairman of the National Panchayat shall be immediately informed by the officer making such arrest.

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[62] *Ibid*

[63] The word 'and' is replaced with a punctuation mark of full stop (.) by the Third Amendment. As this provision was stated to commence with the publication of notice in Gazette, it was commenced on 2038/1/29 B.S.

(5) No person shall be liable to any proceedings in any court in respect of the publication of any report or other papers or of votes or proceedings under the authority of the National Panchayat *subjects to this constitution and rules of National Panchayat*.[64]

(6) Any breach of the privileges of the National Panchayat shall be deemed to constitute contempt of the National Panchayat, and the National Panchayat shall have the exclusive power to decide whether or not there has been any breach of such privileges.

(7) (a) If a person commits contempt of the National Panchayat, the officer presiding over a meeting of the national Panchayat may, upon a decision taken by the National Panchayat, issue and order sentencing such person to a term of imprisonment which may, at the most, extend to the end of that session.

Provided that no person charged with such offence shall be punished without being provided an opportunity to show cause as to why he should not be punished.

(b) The officer presiding over a meeting of the National Panchayat shall in respect of the offence punishable under this clause, have power to issue a warrant of arrest or *a summon*[65], to summon witnesses, to take evidence, to cause documents to be produced and to record statements.

(c) The National Panchayat shall be entitled to cause the detention of any person whom it has power to punish under this clause, by placing him either in the charge of any of its officers or in any government *jail*.[66]

[67]**<u>52. Oath:</u>** Every member of the National Panchayat, before taking part for the first time in the meeting of the National Panchayat or any of its committees, shall take oath before the Chairman of the National Panchayat or, in his absence, before the vice-Chairman or the person appointed pursuant to clause (6) of Article 39, in the prescribed manner and form.

<u>53. Remuneration</u>: The remuneration of the Chairman, the Vice-Chairman and other members of the National Panchayat shall be determined by an Act and until so determined shall be as determined by rules made by His Majesty.

<u>54. Secretary</u>: The Secretary of the National Panchayat shall be appointed by His Majesty.

PART 9
<u>LEGISLATIVE PROCEDURE</u>

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[64] Inserted by the Third Amendment. As this provision was stated to commence with the publication of notice in Gazette, it was commenced on 2038/1/29 B.S.
[65] Changed by the First Amendment
[66] Amended by the First Amendment
[67] Amended by the Second Amendment

[68]**55. Introduction of Bills:** (1) Subject to this Constitution and the rules made under Article 50, any member of the National Panchayat may introduce a bill in the concerned committee constituted pursuant to Article 41 A.

Provided that—

a) before any bill or amendment in respect of any of the following matters is introduced by a member other than a Minister of the Crown or a Minister of State or an Assistant Minister, prior approval of His Majesty shall be obtained through a Minister of the Crown or a Minister of State or an Assistant Minister. His Majesty may, before giving such approval consult the Raj Sabha.

(1) Imposition or collection of or increment in the rate of taxation

(2) Appropriation or expenditure of any amount or increment of the amount sought to be appropriated or expended out of the Consolidated Fund or any other Government fund;

(3) Any matter relating to the expenditures of the Royal family; or

(4) Any matter relating to the debt or guarantee for which His Majesty's Government is liable.

(b) No bill or amendment, which declares in its preamble that it has been made for any or all of the purposes listed in clause (2) of Article (17), shall be introduced without the approval of His Majesty. Such approval shall be obtained through the Secretary of the National Panchayat. His Majesty, before giving such approval, may consult the Raj Sabha.

(2) Notwithstanding anything provided in clause (1), bills and amendments pertaining to Royal Nepalese Army and the Armed Police may be introduced in the concerned committee by the Minister of the Crown, Minister of State or Assistant Minister only.

(3) Bills, introduced in the committee pursuant to clauses (1) and (2), shall, after being processed by the committee in accordance with the rules of the National Panchayat, be introduced in the National Panchayat.

56. Assent to a Bill: (1) When a bill is *passed*[69] by the National Panchayat it shall be presented to His Majesty for his assent and if His Majesty is willing to give his assent, he shall notify his assent ordinarily within one month of the presentation of the bill and if he desires to withhold his assent subject to amendments, he shall proceed in accordance with clause 2

(2) If his Majesty desires to withhold His assent or desires to give assent with amendments to a bill *passed*[70] by the National Panchayat, he shall after consulting the Raj Sabha, return the bill to the National Panchayat with a message, and the National Panchayat shall after giving consideration to such message, submit its recommendations to His Majesty as soon as possible, and His Majesty, after having considered such

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[68] *Ibid*

Note: Clause 'a' of the Proviso of Article 55 was amended also by the first amendment.

[69] changed by the first amendment

[70] *Ibid*

recommendations, shall finally decide whether to give or to withhold his assent or to give His assent subject to amendments.

(3) If His majesty, after consultation with the Raj Sabha, deems it expedient that any bill discussed in the National Panchayat but not. passed, be passed in the form in which it was introduced in the National Panchayat or with amendments, He may send a message accordingly, stating reasons thereof to the National Panchayat and the National Panchayat shall, after giving consideration to such message as soon as possible, submit its recommendations to His Majesty, and his Majesty may, after having considered such recommendations, give his assent to the Bill in the form in which it was introduced in the National Panchayat or with amendments.

(4) When assent is given by His Majesty to a bill in accordance with this Article, such bill shall become an Act and such assent shall be deemed to have been given as soon as the Royal Seal is affixed to the bill.

57. Ordinance: (1) If at any time, except when *there exists National Panchayat* [71]or the National Panchayat is in session, His Majesty is satisfied that circumstances exist which render it necessary for Him to take immediate action, He may, after consulting the Raj sabha if He so desires, promulgate such ordinance as circumstances appear to Him to require and which is not inconsistent with the provisions of this constitution.

(2) An ordinance promulgated under clause (1) shall have the same force and effect as an Act.

Provided that every such ordinance-

[72](a) shall be laid before the National Panchayat within fifteen days of its session Subsequent to such promulgation;

(b) may be withdrawn at any time by His Majesty; and

[73](c) shall ipso facto cease to have effect after sixty days of the commencement of the session of the national Panchayat if it is not repealed pursuant to sub-clause (b).

PART 10
FINANCIAL PROCEDURE

58. No Tax to be levied or Loans to be Raised Except in Accordance with Law: (1) No tax shall be levied and collected except in accordance with law.

[74](2) No loan shall be raised or guarantee given by His Majesty's Government except in accordance with law.

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[71] Inserted by the Third Amendment. As this provision was stated to commence with the publication of notice in Gazette, it was commenced on 2038/1/29 B.S.

[72] Amended by the Second Amendment

[73] *Ibid*

[74] Amended by the First Amendment

59. Consolidate Fund: Except His Majesty's private revenues, and the religious endowment, local taxes, all revenues received by His Majesty's Government, all loans raised on the security of these revenues, and all moneys received in repayment of any loan made under the authority of an Act shall, unless otherwise provided by an Act, be credited to a public fund to be known as the Consolidated Fund.

60. Expenditure from the Consolidated Fund: No expenditure shall be incurred out of the Consolidated Fund or any other public fund other than the Emergency Fund except in accordance with an Appropriation Act or an Act made under Article 64 or 65 and except such sums as are otherwise chargeable on the Consolidated Fund.

[75]**61. Expenditure Chargeable on the Consolidated Fund:** The following expenditure shall be charged on the Consolidated Fund—
(a) expenditure provided by the Act relating to Expenditure of Royal Family;
(b) The amount of remuneration and facilities payable to-
 (1) The Chief Justice and the other Judges of the Supreme Court;
 (2) The chairman and the members of the Standing Committee of Raj Sabha;
 (3) The Chief Commissioner and the Commissioners of the Prevention of Abuse of Authority Commission;
 (4) The Auditor-General;
 (5) The Chairman and the members of the Public Service Commission;
 (6) The Chief Election Commissioner and other election Commissioners; and
 (7) The Attorney-General

(c) The administrative expenses of the Supreme Court, the Raj Sabha, the Prevention of Abuse of Authority Commission, the Department of Auditor-General, the Public Service Commission, the Election Commission and the Office of Attorney General.

(d) All charges relating to the debts for which His Majesty's government is liable;

(e) Any sum required to satisfy any judgment or decree made by any court against his Majesty's Government, and

(f) Any other sum declared by an Act to be charged on the consolidated fund.

62. Estimates of Revenue and Expenditure: (I) His Majesty shall, in respect of every financial year, cause to be laid before the National Panchayat, an annual estimate showing among others the following items-
 (a) the estimate of revenue;
 (b) the sums required to meet the charges on the Consolidated Fund; and
 (c) the sums required to meet the expenditure to be provided for by an Appropriation Act.

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[75] Amended by the Third Amendment
Note: Clause (b), (c) and (d) were also amended by First Amendment and Clause (b) and (c) were also amended by Second Amendment

[76](2) The sums required to meet the expenditure to be provided for by an Appropriation Act shall be specified under separate heads in an Appropriation Bill.

Provided that (a) In the discussion on the annual estimate of revenue and expenditure in the National Panchayat, concerned minister or any other minister on his behalf must submit the particulars on financial responsibility assigned to every ministry and if the goals according to the expenditure is achieved or not.

(b) The Council of Minister may accommodate the recommendations, deemed appropriate, submitted in course of discussion on annual estimate in the National Panchayat according to necessity in the Annual Estimate and Annual Appropriation Bill accordingly.

63. Supplementary Estimates-: (1) His Majesty shall, in respect of any financial year, cause to be laid before the National Panchayat, a supplementary estimate if it is found-

(a) that the sum authorised to be spent for a particular service by the Appropriation Act for the current financial year is insufficient or that a need has arisen for expenditure upon new service not provided for by the Appropriation Act for that year; or

(b) that the expenditure made during that financial year is in excess of the amount authorised by the Appropriation Act.

(2) The sums included in the supplementary estimates shall be specified under separate heads in a Supplementary Appropriation Bill.

64. Advance Expenditure: (1) Notwithstanding anything in the foregoing provisions of this part, any portion of the expenditure estimated for the financial year may, pending the enactment of Appropriation Bill, be incurred in advance by an Act duly passed.

(2) An Advance Expenditure Bill shall not be submitted until the Estimates of Revenue and Expenditure have been presented in accordance with the provisions of Article 62 and the sums involved in the advance expenditure shall not exceed one third of the Estimates of Expenditure for the financial year.

(3) The expenditure incurred in accordance with the advance expenditure Act shall be included in the Appropriation Bill.

65. Credit Expenditure: (1) Notwithstanding anything in the foregoing provisions of this part, if owing to a local or national emergency, due to either natural cause or threat of external aggression or internal disturbance or otherwise, His Majesty is satisfied that it is impracticable or undesirable from the standpoint of the security or interest of the State to specify the details required under Article 62, He may cause to be laid before the National Panchayat a Credit Expenditure bill giving only such particulars of the expenditure proposed which he may consider desirable.

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[76] Amended by the Third Amendment

(2) The expenditure incurred under the Credit Expenditure Act shall be included, in a Supplementary Appropriation Bill as soon as possible.

[77]**66. Contingency Fund:** An Act may create a Contingency Fund into which shall be paid from time to time such sums as may be determined by His Majesty after consultations with the Council of Ministers. Unforeseen expenditures shall be met out of this Fund as Approved by His Majesty. The amount of the expenditure so met shall be reimbursed as soon as possible by an Act.

67. Act relating to financial Procedure: Matters relating to the transfer of the sums appropriated for one head to another and other financial procedures may be regulated by an Act.

[78]PART 10 A
CLASS ORGANISATIONS OF PANCHAYATS

67A. Provisions regarding Class Organisations: (1) In keeping with the objectives of the Panchayat System to promote the welfare of the people by creating a democratic, just, dynamic and exploitation- free society, by bringing about harmony among the various classes keeping in view the greater interest of the nation, the following class organisations shall be formed and run with a view to integrate and utilize the united strength of the various classes for the development of the Nation and to help the local Panchayats to mobilise the general public—

[79](1) The Nepal Women's Organisation:
[80](2) The Nepal Peaseant's Organisation;
[81](3) The Nepal Youth Organisation;
[82](4) The Nepal Elder's Organisation:
[83](5) The Nepal Labour Organisation; and
[84](6) The Nepal Ex- Servicemen's Organisation.

[85](2) Active membership of any one of the class organisations mentioned in clause (1) shall be compulsory in order to be eligible for election in any office of any level of the Panchayat.

[86](3) Organisations specified in Clause (1) shall be formed in Village or Town, District, Zone and in central level and the constitution, functions, duties and powers of those class organisations shall be determined by law.

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[77] Amended by the Second Amendment
[78] *Ibid*
[79] Amended by the Third Amendment
[80] *Ibid*
[81] *Ibid*
[82] *Ibid*
[83] *Ibid*
[84] *Ibid*
[85] *Ibid*
[86] *Ibid*

[87]PART 10 B
BACK-TO-VILLAGE NATIONAL CAMPAIGN

67B

[88]PART 10 C
PREVENTION OF ABUSE OF AUTHORITY COMMISSION

67C. Prevention of Abuse of Authority Commission: (1) In order to prevent Abuse of Authority, there shall be a Commission on the Prevention of Abuse of Authority (hereinafter referred to as the Commission), consisting of a Chief Commissioner and, if required, such number of other Commissioners as may be specified by His Majesty.
(2) The Chief Commissioner and other Commissioners shall be appointed by His Majesty and if desired by Him, after consultations with the Raj Sabha.

(3) The term of office, remuneration and other conditions of service of the Chief Commissioner and other Commissioners, and the functions, duties, powers and procedure of the commission shall be as specified in the rules made by His Malesty.

(4) Subject to the rules made pursuant to clause (3), the Commission may delegate all or any of its powers to any person or office.

(5) The Commission shall submit an Annual Report regarding its activities to His Majesty.

67D. Hearing of Cases: (1) Cases involving abuse of authority shall be heard and decided either by the Commission or the Chief Commissioner or other commissioner of the commission or by the officer holding government office prescribed by the Commission by a notification published in the Nepal Gazette.

(2) Appeal against judgments under clause (1) shall lie in the court constituted by His Majesty after consultations with the chief Justice.

(3) The procedure for the hearing of case under clause (1) and of appeals under clause (2) shall be as prescribed in the Rules made by His Majesty.

67E. Saving: Notwithstanding anything provided in the other Articles of this Constitution or the existing laws, the provisions of the Rules made pursuant to Articles 67C and 67D shall apply in matters provided therein.

Note: chapter 10A was inserted by the First Amendment and was commenced on 2024/7/7.
[87] Repealed by the Third Amendment
Note: Part 10 B was inserted by the First amendment and was commenced on 2024/7/7 and was amended by the second amendment which was commenced on 2032/9/18

[88] Inserted by the Second amendment and was commenced on 2034/8/1

PART 11
SUPREME COURT

68. Supreme Court: (1) There shall be a Supreme Court of Nepal consisting of a Chief Justice and, unless a larger number is specified by law, not more than six other judges.

(2) The Supreme Court, subject to the provisions of this Constitution, shall be a court of record and shall have the power to impose punishment as prescribed by law for contempt of itself or of courts subordinate to it.

69. Judges of the Supreme Court: (1) His Majesty shall appoint the Chief Justice after consulting, if he so desires, such members of the Raj Sabha as he may deem appropriate and also after consultation with other Judges of the Supreme Court, and other judges of the Supreme Court shall be appointed by Him after consultation with the Chief Justice.

[89](2) Subject to the provisions of clause (4), the term of office of the Chief Justice and other Judge of the Supreme Court shall be ten years. His Majesty may, if he deems it proper, re-appoint a person for such term as may be specified by Him

Explanation: For the purpose of calculating the term of office of any Judge of the Supreme Court who has been appointed the Chief Justice, the term which he has already served as judge of the Supreme Court shall also be reckoned.

[90](2A) Subject to the provisions of clause (2) the Chief Justice and any other Judge of the Supreme Court shall hold office until he attains the age of sixty five years.

Provided that he shall be relieved of his office on the date either of his attaining the maximum age under this clause or of the completion of his term specified in clause (2), whichever is earlier.

[91](2B) The provisions of clause (2) and (2A) shall apply also in the case of the Chief Justice and the other Judges of the Supreme Court holding office at the time of the commencement of this clause.

Provided that for the purpose of calculating their term of office under clause (2), the term shall be deemed to commence from the date on which this clause comes into force.

[92](3) A person shall not be qualified for appointment as a judge of the Supreme Court unless he has attained the age of forty five and-

(a) has been for at least five years the Judge of a Regional Court or an equivalent judicial post or:

(b) has been for at least seven years a government or private advocate; or

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[89] Amended by the Second Amendment
[90] Inserted by the Second Amendment
[91] *Ibid*
[92] Amended by the Second Amendment

(c) is, in the opinion of His Majesty, a distinguished jurist.

[93](4) The Chief Justice and any other Judge of the Supreme Court-

(a) shall be relieved of his office if his resignation in writing is accepted by His Majesty, or

(b) may be relieved of his office by His Majesty if a Commission appointed by his majesty recommend like that for not performing his duties due to incapacity or misbehaviour or malafide acts.

Provided that the Chief Justice or any other Judge of the Supreme Court so charged shall not be denied a reasonable opportunity for defending himself before the commission.

(5) The Commission appointed under sub-clause (b) of clause (4) shall have power similar to that of a court to summon witness, to take evidence and to punish for its contempt.

(6) The remuneration and other conditions of service of the Chief Justice and the other Judges of the Supreme Court shall be determined by an Act and until so determined shall be as determined by Rules made by His majesty. The remuneration and the other conditions of service of the Chief Justice or any other Judge of the Supreme Court shall not be varied to his disadvantage during his term of office.

(7) When the office of the Chief Justice is vacant or when the Chief Justice is, by reason of ill- health or otherwise, unable to perform the duties of his office, the duties of that office shall be performed by such one of the other Judges of the Supreme Court as may be appointed by His Majesty to be the Acting Chief Justice.

(8) His Majesty may, after consulting the Chief Justice, appoint as many ad hoc or additional Judges as may be necessary for the Supreme Court for such period and with such remuneration and facilities as His Majesty may specify.

Provided that such Judges shall be required to possess the same qualifications as laid down in clause (3).

(9) No person who has held office as a permanent Judge of the Supreme Court shall plead Court or before any authority.

71. Extra-ordinary jurisdiction of the Supreme Court: *Subject to the Provisions of this Constitution*[94]*,* the Supreme Court shall have power to issue directions, orders or writs including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari for the enforcement of rights conferred by Part 3 or for the enforcement, in cases where no other remedy is provided, of rights conferred by any other law for the time being in force.

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[93] *Ibid*

[94] Inserted by the Second Amendment

Provided that nothing in this Article shall apply in relation to matters falling within the jurisdiction of a *Court-Martial*[95].

72. Supreme Court not to overrule its own decision: The Supreme Court shall not itself overrule its final decision.

Provided that the Supreme Court-

(a) may *review*[96] any decision made by it on such terms and conditions as may be prescribed by law; and

(b) may revise its previous decision in a case and finally decide in accordance with law if His Majesty issues a command for the revision of that case (already decided by the Supreme Court) on the recommendation of a Judicial Committee *(... ... ...)*[97] on the application of the concerned party within the time fixed by law.

[98]**72A. Judicial Committee:** The constitution, functions, duties, powers and procedure of the Judicial Committee shall be as prescribed in the Rules made by His Majesty.

73. Legal Principle declared by the Supreme Court to be binding: The legal principles declared by the Supreme Court in cases within its jurisdiction as conferred by this Constitution or other laws for the time being in force, shall be binding on all courts.

Provided that the legal principles declared by the Supreme Court before the commencement of this Constitution may not be binding on the Supreme Court as precedent after the commencement of this Constitution.

74. Judicial Service Commission [99](1) There shall be a Judicial Service Commission consisting of the Chief Justice, *The Minister for Law and Justice or when the Minister for Law and Justice has not been appointed the Minister of State for Law and Justice acting as the minister*[100] and the Chairman of the Public Service Commission. His Majesty Government may, on the recommendation of this Commission and in accordance with law, may make permanent appointment, transfer and promotion to the gazetted posts of the Judicial Service, and give departmental punishment to officials of such posts.

Provided that His Majesty's Government shall consult the Public Service Commission before making permanent appointment for first time of any person, not in the government service, to a gazetted post of the Judicial Service or for promoting a person from a non-gazetted post in the Judicial Service to gazetted post in that Service.

(2) Other powers, functions and procedures, of the Judicial Service Commission shall be as prescribed by law.

PART 12
AUDITOR-GENERAL

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[95] Changed by the First Amendment
[96] *Ibid*
[97] Omitted by the Second Amendment
[98] Inserted by the Second Amendment
[99] Amended by the First Amendment
[100] Amended by the Second Amendment

75. Auditor-General: (1) There shall be an Auditor-General of Nepal who shall be appointed by His Majesty after consulting, if he so desires, the Raj Sabha.

(2) [101]The Auditor-General shall hold his office for 6 years from the date of his appointment.

Provided that-

[102](a) he shall be relieved of his office if his resignation in writing is accepted by His Majesty; or

(b) he may be removed from his office on the same grounds and in the same manner as a Judge of the Supreme Court.

(3) The ………,[103] remuneration and other conditions of service of the Auditor- General shall be determined by an Act and until so determined shall be as determined by Rules made by His Majesty. The ……….[104], remuneration and other conditions of service of the Auditor General shall not be varied to his disadvantage during his term of office.

(4) A person who has held office as an Auditor-General shall not be eligible for appointment in government service *except in the post to be elected by His Majesty*[105].

76. Functions and Powers of the Auditor-General: [106](l) The accounts of the Supreme Court, the National Panchayat, the Raj Sabha, the Prevention of Abuse of Authority Commission, the Public Service Commission, the Election Commission, the Attorney General and the offices of other constitutional organs and all the government offices and departments including courts and also the accounts of the government owned corporate bodies, shall be audited by the in the manner prescribed by the law considering the regularity, financial prudence, efficiency, effectiveness and rationality. The Auditor-General and his deputies shall at all time be entitled to have access to all documents relating to such accounts.

[107](2) The accounts to be audited by the Auditor General pursuant to Clause (1) shall be maintained in such form as may be prescribed, subject to the Act related. Until so prescribed, the account shall be maintained in the existing form.

(3) Other functions of the Auditor-General relating to audit shall be as determined by law, and in that respect he may exercise such powers as are conferred on him by the respective law.

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[101] Amended by the Third Amendment
[102] Amended by the Second Amendment
[103] Omitted by the Third Amendment
[104] *Ibid*
[105] Inserted by the Third Amendment
[106] Amended by the Third Amendment
Note: As this provision was stated to commence with the publication of notice in Gazette, it was commenced on 2038/1/29 B.S.
This provision was also amended by the First Amendment.
[107] *Ibid*

(4) The Auditor-General shall submit to His Majesty annual *report*[108] on the work done by him under this Article, and His Majesty shall cause such *report*[109] to be laid before the National Panchayat.

PART: 13
PUBLIC SERVICE COMMISSION

77. Public Service Commission: (1) There shall be a Public Service Commission of Nepal Consisting of such number of members as His Majesty may prescribe, One of such members as may be designated by His Majesty, shall be the Chairman of the Commission.

(2) At least one-third of the members of the Public Service Commission shall be such persons who have not, at any time during the period of five years immediately preceding, been in government service.

(3) His Majesty shall appoint the members of the Public Service Commission after consultation, if he so desires, with the Raj Sabha.

[110](4) A member of the Public Service Commission shall hold office for a term of six years from the date of his appointment.

Provided that –

(a) he shall be relieved of his office if his resignation in writing is accepted by His Majesty; or

(b) he may be removed from his office on the same grounds and in the same manner as a Judge of the Supreme Court.

(5) ……….[111]

(6) The remuneration and other conditions of service of the members of the Public Service Commission shall be determined by an Act and until so determined shall be as determined by Rules made by His Majesty. The remuneration and other conditions of service of a member of the Public Service Commission shall not be varied to his disadvantage during his term of office.

(7) A person who has held office as a member of the Public Service Commission shall not be eligible for appointment in government service *except in the post to be appointed by His Majesty*[112].

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[108] Changed by the First Amendment
[109] *Ibid*

[110] Amended by the Second Amendment
[111] Omitted by the Second Amendment
[112] Inserted by the Third Amendment

78. Functions of the Public Service Commission: (1) The Public Service Commission shall be consulted-

(a) on the laws relating to conditions of civil services:,

[113](b) on the general principles to be followed in matters of appointment, promotions and departmental actions in the civil services or in civil posts;

[114](c) on the suitability of the candidates in making appointment in a civil post for a period exceeding six months;

(d) on the suitability of candidates in making transfer or promotion from one category of civil service to another category of civil service or from any other government service to civil services; and

(e) on matters relating to departmental punishments proposed against any *gazetted*[115] civil servant.

Provided that under the provisions of the Constitution if-

(1) certain powers and functions are allotted to the Judicial Service Commission, those Provisions shall be as prescribed; and

(2) an employee, holding a post which does not require consultation with the Public Service Commission, is to be permanently transferred or promoted to a post for which the consultation with the Public Service Commission is required, such transfer or promotion shall be made only after previous consultation with the Public Service Commission.

[116](2) A person, who is henceforth appointed by recruitment to a civil post without consulting the Public Service Commission, shall not be entitled to *pension*[117].

(3) His majesty may consult the Public Service Commission on any matter relating to any government service or post.

[118] (3A). The Public Service Commission shall be consulted in the making of the rules concerning the conditions of service of the employees of the government owned or controlled corporate bodies or of the organisations owned or controlled by such corporate bodies and in the matter of general principles to be applied in the appointment, promotion and departmental action within the service or posts of such corporation or organisation. The Public Service Commission shall exercise a supervisory control to ensure that rules and the general principles have been complied with.

(4) For the purposes of this Article all employees of His Majesty's Government except army *officer*[119]*s* and jawans, *Police*[120] officers, and employees appointed to such posts as

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[113] Amended by the Third Amendment
[114] *Ibid*
[115] Changed by the First Amendment
Note: part (c) of the Clause 1 of Article 78 was also amended by the First Amendment
[116] Amended by the First Amendment
[117] Changed by the First Amendment
[118] Amended by the Second Amendment
[119] Changed by the First Amendment
[120] *Ibid*

are declared not to be civil posts………..[121] by an order of His Majesty, shall be deemed to be civil servants and the service or post of such employees as civil service or civil post.

[122](4A). The Public Service Commission may delegate any of its functions under this Articles to any of its members or to an officer of His Majesty's Government subject to such conditions as it may prescribe.

(5) Subject to the Provisions of this Article the procedure of the Public Service Commission shall be as determined by law.

(6) The Public Service Commission shall submit to His Majesty an annual *report*[123] on the work done by it and His Majesty shall cause such *report*[124] to be laid before the National Panchayat. His Majesty shall also, whenever the advice of the Public Service Commission has not been accepted, cause to be sent to the National Panchayat with the annual *report*[125] a memorandum containing reasons for such non- acceptance of the advice of the Public Service Commission.

[126]PART 13A
ELECTION COMMISSION

78A. Election Commission: (1) There shall be an Election Commission of Nepal consisting of the Chief Election Commissioner and, if required, such other number of Commissioners as His Majesty may prescribe.

(2) The Chief Election Commissioner and other Election Commissioners shall be appointed by His Majesty after consulting, if he so desires, the Raj Sabha.

(3) If besides the Chief Election Commissioner, other Election Commissioners are also appointed, the Chief Election Commissioner shall act as the Chairman of the Election Commission.

[127](4) The Chief Election Commissioner and other Election Commissioners shall hold their office till the completion of their term.

Provided that-

(a) he shall be relieved of his office if his resignation in writing is accepted by His Majesty; or

(b) he may be removed from his office on the same grounds and in the same manner as a Judge of the Supreme Court.

(5) … … … [128]

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[121] Omitted by the Third Amendment
[122] Inserted by the First Amendment
[123] Changed by the First Amendment
[124] *Ibid*
[125] *Ibid*
[126] Inserted by the First Amendment
[127] Amended by the Second Amendment
[128] Omitted by the Second Amendment

(6) The term of office of the Chief Election Commissioner and the Election Commissioners *shall be six years*[129] and their remunerations and other conditions of the service shall be determined by an Act and until so determined shall be as determined by rules made by his Majesty. The term of office, remunerations and other conditions of service of the Chief Election Commissioner or any other Election Commissioner shall not be varied to his disadvantage during his term of office.

78B. Functions and Powers of the Election Commission: [130](l) The elections to the various levels of Panchayat in accordance with the provisions of this Constitution and other laws for the time in force, shall be conducted, supervised, directed and regulated by the Election Commission.

[131](2) Any election to the upper level of the Panchayat conducted in accordance with clause (1) shall not become invalid only by reason of the fact that election to the lower level of the Panchayat has not been held.

(3) The constitution of the Election Tribunal, and the appointment or nomination of members therein shall be made on the recommendation of the Election Commission.

(4) The Election Commission may delegate any of its powers and functions under this Article to the Chief Election Commissioner, other Election Commissioners or to an officer of His Majesty's Government subject to such conditions as it may prescribe.

(5) Powers, functions and procedures of the Election Commission, other than those mentioned in this Constitution, shall be as prescribed by law.

78C. ……[132]

PART 14
[133]ATTORNEY-GENERAL

79. [134]Attorney-General: (1) There shall be an *Attorney-General*[135] for Nepal who shall be appointed by His Majesty.

(2) No person shall be appointed as *Attorney-General*[136] unless he is qualified to be appointed as a Judge of the Supreme Court.

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[129] Inserted by the Third Amendment
[130] Amended by the Second Amendment
[131] *Ibid*
[132] Repealed by the Third Amendment
Note: Article 78C was inserted by the Second Amendment
[133] Changed by the First Amendment
[134] *Ibid*
[135] *Ibid*
[136] *Ibid*

[137](3) The Attorney-General shall hold office for the period of six years from the date of his appointment.

Provided that he shall be relieved of his office if

(a) his resignation in writing is accepted by His Majesty; or

(b) if he is relieved from his office by His Majesty.

80. [138]Duties of the Attorney-General: It shall be the duty of the *Attorney General*[139], if his advice is solicited on constitutional and legal matters, to give advice to His Majesty, His Majesty's Government and such other authorities as His Majesty may specify and to perform such other duties as may be assigned to the *Attorney-General*[140] by or under this Constitution and other laws for the time being in force. *The Attorney General shall have the right to be present in all courts of kingdom while performing mentioned duties.*[141]

PART 15
[142]SPECIFIC SITUATION AND EMERGENCY POWERS

[143]80. Formation of Council of Minister in Specific Situation: (1) Notwithstanding anything contained in other Articles of the Constitution, in case of acceptance of resignation submitted by the Prime Minister or death of serving prime minister or if the post becomes vacant by any other reason and if there is no National Panchayat at that time, His Majesty may, whatever he deems appropriate, take necessary measures for the functioning of the Council of Minister.

Provided that such measures shall not continue for the period exceeding three months.

(2) If in case His Majesty is satisfied that specific situation not mentioned in Clause (1) has arisen he may, if he desires, after consultation with the Steering Committee of National Panchayat, if that exists at that time, and Standing Committee of Raj Sabha, issue orders for following and such orders shall be published in the Gazette:

(a) He may either just suspend Article (25), (26), (26A), (27), (28) and (29) or may suspend Article (25), (26), (26A), (27), (28) and (29) along with the dissolution of National Panchayat and may cause to hold another election. He may suspend any other Article or any part of any article of the constitution except this Article for that cause.

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[137] Amended by the Third Amendment. As this provision was stated to commence with the publication of notice in Gazette, it was commenced on 2038/1/29 B.S.

[138] Changed by the First Amendment

[139] *Ibid*

[140] *Ibid*

[141] Inserted by the Third Amendment. As this provision was stated to commence with the publication of notice in Gazette, it was commenced on 2038/1/29 B.S.

[142] *Ibid*

[143] The third amendment of the constitution changed the original Article 81 to 81A and inserted this new Article 80. As this provision was stated to commence with the publication of notice in Gazette, it was commenced on 2038/1/29 B.S.

(b) His Majesty may assume all or any of the power inherent in any institution or authority suspended or dissoluted pursuant to Clause (1) or it may be as directed by him.

(3) His Majesty may make following provisions till the orders pursuant to Clause (2) are in force:

(a) Provide that His Majesty may, in consultation with the standing committee of Raj Sabha if he desires, make provision for the functioning of Council of Minister to be carried out according to his direction;

(b) Provision of appointment of the Prime Minister, Deputy Prime Minister, Minister of the Crown, Minister of State, Assistant Minister as per the necessary if His Majesty desires;

(4) Status of the individuals appointed pursuant to Clause (3) shall be as follows:

(a) he shall be responsible towards His Majesty for the departmental duties or functions he is assigned;

(b) he shall remain on the post during the pleasure of His Majesty.

(c) may take part in National Panchayat and Committees thereof if in case National Panchayat is not dissoluted;

Provided that, if he is member of National Panchayat he shall not right to vote; and

(d) shall be entitled to the remuneration as prescribed by His Majesty.

(5) If His Majesty is satisfied that there is no longer the situation pursuant to Clause (2), He may revoke the order issued pursuant to Clause (2) by subsequent order.

[144]**<u>81A. Emergency Powers</u>:** (1) If His Majesty is of the opinion that a grave emergency exists whereby the security of the whole of Nepal or any part thereof is threatened by war, external aggression or internal disturbance, His Majesty may, by Proclamation-

(a) suspend, except this Article, all or any of the Articles of this Constitution or any provision of such Articles; and

(b) assume to Himself all or any of the powers vested in or exercisable by the National Panchayat or any other governmental body or *authority*[145].

(2) Any Proclamation made under clause (1) may be altered or revoked by a subsequent Proclamation and such Proclamation shall continue to operate until His majesty is satisfied after consulting, if he so desires, the members of the Steering Committee of the National Panchayat, *if that exists at that time*[146], and the members of the Standing Committee of the Raj Sabha, that grave emergency no longer exists.

(3) Laws made by His Majesty after assuming powers under this Article shall, in so far as they are inconsistent with other Articles of this Constitution, ipso facto cease to operate at the expiration of six months after the Proclamation under clause 2 ceases to operate.

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[144] The third amendment of the constitution changed the original Article 81 to 81A.

[145] Amended by the Third Amendment. As this provision was stated to commence with the publication of notice in Gazette, it was commenced on 2038/1/29 B.S.

[146] Inserted by the Third Amendment.

PART 16
AMENDMENT OF THE CONSTITUTION

82. Amendment of the Constitution: (1) His Majesty may, by Proclamation, amend this Constitution.

[147](2) His Majesty shall exercise the Power specified in clause (I) only after consultation with the Special Committee.

(3) The Special Committee specified in clause (2) shall consist of the following members:

(a) Members of the Standing Committee of the Raj Sabha and

(b) Members of the Steering Committee of the National Panchayat, *if that committee exists at that time*[148]

(4) A person, elected by the members of the Special Committee formed under clause (3) from among themselves, shall preside over meetings of that Committee.

(5) Any amendment made by his Majesty by a Proclamation under this Article shall form an integral part of this Constitution.

PART 17
MISCELLANEOUS

[149]**83. Supreme Command of the Royal Nepalese Army:** The Supreme Command of the Royal Nepalese Army is vested in His Majesty.

[150]**83A. Commander-in-Chief:** (1) The Commander-in-Chief *of Royal Nepalese Army*[151] shall be appointed by His Majesty.

(2) The functions, duties, powers and conditions of service of the Commander-in-Chief shall be as regulated by law.

84. Pardon: His Majesty shall have power to grant pardon and to suspend, commute or remit any sentence passed by any judicial authority or special court or any authority appointed in accordance with an Act.

Provided that in the exercise or the power under this Article His Majesty, if he deems appropriate, may consult the Raj Sabha.

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[147] Amended by the Second Amendment.
[148] Inserted by the Third Amendment. As this provision was stated to commence with the publication of notice in Gazette, it was commenced on 2038/1/29 B.S.
[149] Amended by the Second Amendment
[150] Inserted by the First Amendment
[151] Amended by the Second Amendment

85. Titles, Honours and Decorations: (I) Titles, honours or decorations shall be conferred only by His Majesty.

(2) No citizen of Nepal shall accept any title, honour or decoration from any foreign state except with the approval of His Majesty.

86………..[152]

86A. Zonal Commissioner: (1) There shall be a Zonal Commissioner in every zone of Nepal.

(2) The zonal commissioner shall be appointed His Majesty.

(3) The functions, duties and powers of the zonal commissioner shall be as prescribed by law.

86B. ………[153]

[154]**86C. Royal Nepalese Ambassadors and Special Envoys:** Royal Nepalese Ambassadors and the Special Envoys shall be appointed by His Majesty.

[155]**86D. Annual Report:** Notwithstanding anything contained in other articles of this constitution and other prevailing laws, all other constitutional organs except Council of Ministers shall submit annual report of their respective bodies to His Majesty generally within the month of Jestha.

87. Bar of Jurisdiction of Courts: His Majesty shall not be amenable to any court for the exercise of the power or the performance of the duties of His office, or for any other act done by Him.

Provided that nothing in this Article shall be construed as restricting any right conferred by law to bring appropriate proceedings against His Majesty's Government or any officials of his Majesty.

88. Tenure of Office of the Employees of His Majesty: Except as otherwise provided in this Constitution, the employees of His Majesty shall hold office during the pleasure of His Majesty but the conditions of their service shall be determined by law.

89. Oath : The employees of His Majesty shall be required to take an oath of allegiance and loyalty to His Majesty in the manner and form prescribed by His Majesty.

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[152] The second Amendment of the Constitution placed the Article 86 at the place of Article 22A.
Note: Article 86 was also amended by the First Amendment.

[153] Repealed by the Second Amendment

[154] Inserted by the First Amendment. This Article was commenced on 2024/4/1 B.S.

[155] Inserted by the Third Amendment. As this provision was stated to commence with the publication of notice in Gazette, it was commenced on 2038/1/29 B.S.

<u>90. Residuary Powers of his Majesty</u>: All inherent powers relating to matters not provided for in this Constitution or in other laws for the time being in force shall continue to vest in His Majesty.

[156]**<u>90A. Power to remove difficulties</u>:** If any difficulty arises in bringing this Constitution into force, His Majesty may issue such orders as He may deem necessary to remove that difficulty and such order shall be deemed to have been included in this Constitution.

PART 18
DEFINITIONS AND INTERPRETATION

<u>91. Definitions and Interpretation:</u> (1) In this Constitution, unless the subject or context otherwise requires-

(a) “Article” means an Article of this Constitution;
(b) “Bill” means a draft of an Act to be presented to His Majesty for his assent;
(c) “Citizen” means a citizen of Nepal;
(d) “Nepal” means the Kingdom of Nepal;
(e) “Petition in Writing” means a petition in writing signed by the person making such petition; and
(f) “Remuneration” means salary, allowances, *pension*[157] and also includes any remuneration in kind.

(2) Unless the subject or context otherwise requires and subject to the provisions of this Constitution, the Nepal Laws (Interpretation) Act, 2010 shall apply in the interpretation of this Constitution as it applies in the interpretation of Nepal laws.

PART 19
TRANSITIONAL PROVISIONS

<u>92. Existing Laws to remain in Operation:</u> All laws in force immediately before the commencement of this Constitution shall remain in operation in the form in which they are in force until repealed or amended by an Act

Provided that the laws inconsistent with this constitution shall, in so far as they are inconsistent, ipso facto cease to operate after one year from the commencement of this Constitution.

<u>93. Making of Law prior to the First Session of the National Panchayat</u>: After the commencement of this Constitution and prior to the sitting of the first session of the National Panchayat His Majesty, in exercise of full legislative powers under this Constitution, may make Acts as may be necessary and the authority specified in such acts may as required make rules, orders or bye- laws having the force of law, under such Acts.

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[156] Inserted by the Second Amendment
[157] Changed by the First Amendment

94. Provisions relating to Supreme Court, Public Service Commission, etc: The existing Supreme Court and all the Judges appointed therein, the existing Public Service Commission and all the members appointed therein, the Auditor-General and *the Attorney-General*[158] in office before the commencement of this Constitution shall be deemed to have been in existence or in office under this Constitution after its commencement.

Provided that the term of office of all such officers shall be as determined before the commencement of this Constitution and notwithstanding any thing in this Constitution or any other law for the time being in force His Majesty, if he deems necessary, may transfer or remove any such officer before the constitution of the National Panchayat.

95. Provisions relating to Council of Ministers, Ministers and Assistant Ministers: After the commencement of this Constitution and prior to the formation of another Council of Ministers as and when the National Panchayat is constituted, the Council of Ministers at the time of the commencement of this Constitution shall be deemed to be the Council of Ministers under this Constitution.

Provided that His Majesty, if He deems necessary, may change the Ministers and Assistant Ministers during that period.

96. ……….[159]

PART 20
SHORT TITLE AND COMMENCEMENT

97. Short Title and Commencement: (I) This Constitution shall be called "The Constitution of Nepal"

(2) This Constitution shall come into force on Sunday the First of Poush, Two Thousand and Nineteen Year of the Bikram Sambat.

[158] Changed by the First Amendment
[159] Repealed by the Second Amendment